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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,492	07/02/2003	Jeffrey B. Stafford	22036.PUS	3560

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EXAMINER

SAKRAN, VICTOR N

ART UNIT PAPER NUMBER

3677

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/612,492

**Applicant(s)**

STAFFORD, JEFFREY B.

**Examiner**

VICTOR N SAKRAN

**Art Unit**

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 4, are rejected under 35 U.S.C. 103(a) as being unpatentable over Naylor et al U. S. Patent No. 2,153,474 in view of Rushing U. S. Patent No. 6,327,753.

Naylor et al discloses the general combination claimed of a clamp for securing a rod comprising an elongated body portion (10) a bore extending through said

Art Unit: 3677

body portion, a clamping screw defining a threaded shaft mounted in the sidewall of said body portion, a jaw (shoe) (15) having an arcuate face for embracing the rod disposed at the inner end of said screw and adapted to be snugly fits within a pocket (14) such that the rotation of the screw is adapted to advance the jaw (shoe) inwardly against the rod, see Figures 1-7; page 1, column 1, lines 54-55; page 1, and column 2, lines 1-10, except that the reference to Naylor et al does not provide a recess in the bore of its body portion located opposite the jaw (shoe) (15) and for holding a flexible rope, Rushing teaches the use of a clamp having a body portion provided with a bore and a recess (15) formed in the bore including a block (shoe) (3) disposed at the end of a screw so that the rotation of the screw advance the block inwardly against the flexible rope into the recess to firmly secure the rope in place, see Figure 1 and the abstract. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the body portion in Naylor et al with a recess located opposite its jaw and to use its clamp for securing a flexible rope so that upon rotation of its screw in a direction to advance the block inwardly against the flexible rope into the recess in order to secure the rope in place by merely substituting the recess for the core (24) and the rod with a flexible rope in Naylor et al in the manner taught, disclosed and suggested by Rushing, especially, since such modification involves only routine skill in the art. Furthermore, Applicant is reminded that in considering the disclosure of a reference, it is proper to take into account not only specific teaching of the

Art Unit: 3677

reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom; see *In re Preda*, 401 F2d 825, 826, 159 USPQ 342,344 (CCPA1968).

Claim 3, is rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claim 1, above, and further in view of *Rechter U. S. Patent No. 1,746,090* who teaches the use of clamp for securing a flexible rope comprising an elongated body portion and a hook integrally formed with the body portion and to further provide the body portion in *Naylor et al* with a hook by merely substituting the hook for the handle (11) which is the equivalent, and can be used as hook in the taught and suggested by *Rechter*, it would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claim 2, is rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claim 1, above, and further in view of *Adams U. S. Patent No. 416,284* who teaches the use a gradually tapered bore increasing in diameter towards the center of its bore in a clamping device assembly and to further modify the shape of the bore in *Naylor et al* to be gradually increasing in diameter towards the center bore section of its body portion in the manner taught, disclosed and suggested by *Adams*.

Moreover, the particular shape of the of the bore within the body portion in a clamp is considered to be no more than a matter of design choice obvious to one

Art Unit: 3677

**having ordinary skill within the art at the time the invention was made, especially, since it has been held that the particular change in shape of an element in a prior art device is such a change considered no more than an obvious matter of design choice to one having ordinary skill within in the art. See In Re Dailey, 357 F. 2d 669, 149 USPQ 47 (CCPA 1954).**

**The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's attention is directed to the art cited herein, as showing structure related to Applicant's disclosed invention.**


**Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR N SAKRAN whose telephone number is 703-308-2224. The examiner can normally be reached on 6:30 AM - 5:00 PM.**

**If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. swann can be reached on 703-308-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.**

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 8, 2004

  
VICTOR N SAKRAN  
Primary Examiner  
Art Unit 3677